

House Bill 1401

By: Representatives Glanton of the 76th, Abdul-Salaam of the 74th, Heckstall of the 62nd,
Dodson of the 75th, Jordan of the 77th, and others

A BILL TO BE ENTITLED
AN ACT

1 To create the City of College Park Water and Sewer Authority and to provide for the
2 membership of the authority; to confer powers upon the authority; to authorize the issuance
3 of revenue bonds of the authority payable from the revenues, tolls, fees, fines, charges, and
4 earnings of the authority, contract payments to the authority, and other moneys pledged
5 therefor and authorize the collection and pledging of the revenues, tolls, fees, fines, charges,
6 and earnings of the authority for the payment of such revenue bonds; to authorize the
7 execution of resolutions and trust indentures to secure the payment of the revenue bonds of
8 the authority and to define the rights of the holders of such obligations; to make the revenue
9 bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction
10 of actions relating to any provisions of this Act; to provide for the validation of bonds; to
11 provide for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.
14 Short title.

15 This Act shall be known and may be cited as the "City of College Park Water and Sewer
16 Authority Act."

17 SECTION 2.
18 City of College Park Water and Sewer Authority created.

19 (a) There is hereby created a public body corporate and politic to be known as the "City of
20 College Park Water and Sewer Authority," which shall be deemed to be a political
21 subdivision of the state and a public corporation, and by that name, style, and title such body
22 may contract and be contracted with, sue and be sued, implead and be impleaded, and

complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of five members. The mayor and the members of the city council of the City of College Park shall be the members of the authority, ex-officio. The term of office as a member shall commence upon the commencement of the term of office as mayor or a member of the city council of the City of College Park and shall terminate upon termination of such term of office. Immediately upon the passage of this Act, the members of the authority shall enter upon their duties and as soon as is practicable thereafter shall hold an organizational meeting.

(c) The members of the authority shall not be entitled to compensation for their services but shall be entitled to reimbursement for their actual expenses necessarily incurred in the performance of their duties.

(d) The mayor of the City of College Park shall serve as ex-officio chairperson of the authority, the mayor pro tempore of the City of College Park shall serve as ex-officio vice chairperson of the authority, and the city clerk of the City of College Park shall serve as ex-officio secretary of the authority.

(e) Three members of the authority shall constitute a quorum. Any action may be taken by the authority upon the affirmative vote of a majority of the members. No vacancy on the authority shall affect the requirement that three members of the authority constitute a quorum.

(f) The authority shall have the power to establish bylaws and to promulgate and adopt rules and regulations necessary or desirable for the management and operation of the authority.

SECTION 3.

Definitions.

As used in this Act, the term:

(1) "Authority" means the City of College Park Water and Sewer Authority created by this Act.

(2) "Cost of the project" means and embraces the cost of construction; the cost of all lands, real and personal properties, rights, easements, and franchises acquired; the cost of buildings, improvements, materials, labor, and services contracted for; the cost of all machinery and equipment; financing charges; capitalized interest prior to and during construction and for six months after completion of construction; the cost of engineering, architectural, fiscal agents and legal expenses, plans and specifications, and other expenses necessary or incidental to determining the feasibility or practicability of the project; administrative expenses and such other expenses as may be necessary or incident

to the financing authorized by this Act; working capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip, operate, and maintain the project.

(3) "Project" means (A) systems, plants, works, instrumentalities, and properties used or useful in connection with the obtaining of a water supply and the conservation, treatment, distribution, disposal, and sale of water for public and private uses and used or useful in connection with the collection, transmission, treatment, and disposal of sewage, waste, and storm water, together with all parts of any such system, plant, work, instrumentality, and property and appurtenances thereto, including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, recreational facilities adjacent to such reservoirs, generating stations, sewage disposal plants, interceptor sewers, trunk lines and other sewer and water mains, filtration works, pumping stations, and equipment; and (B) any undertaking permitted by the Revenue Bond Law.

(4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia codified at O.C.G.A. Title 36, Chapter 82, Article 3 or any other similar law hereinafter enacted.

(5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

(6) "Self-liquidating" means any project for which the revenues and earnings to be derived by the authority therefrom, including but not limited to any contractual payments with governmental or private entities and all properties used, leased, and sold in connection therewith, together with any grants, will be sufficient to pay the costs of operating, maintaining, and repairing the project and to pay the principal and interest on the revenue bonds or other obligations which may be issued for the purpose of paying the costs of the project.

(7) "State" means the State of Georgia.

(8) "System" means all components utilized by the authority for the purpose of providing services, including but not limited to real property, real property improvements, equipment, materials, structures, and facilities.

SECTION 4.

Powers.

The authority shall have the power:

(1) To have a seal and alter the same at its pleasure;

(2) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold, own, operate, maintain, lease, sell, convey, and dispose of real and personal property of every kind and character for its corporate purposes;

(3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation, in accordance with the provisions

of any and all existing laws applicable to the condemnation of property for public use, real property or rights or easements therein, or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue; and to lease or make contracts for the use, sale, or disposition of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under this Act, except from the funds provided under the authority of this Act. In any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action, or proceedings as may be just to the authority and to the owners of the property to be condemned. No property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless at the time such property is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrance;

(4) To combine its water, storm-water, and sewerage facilities into one system and to operate and maintain its facilities as such;

(5) To appoint, select, and employ officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix their respective compensation;

(6) To make and execute with public and private persons and corporations contracts, leases, installment sales agreements, other agreements, and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, maintenance, lease, or sale of a project or the system. Any and all persons, firms, and corporations; the state and any institution, department, or other agency thereof; and any county, municipality, school district, or other political subdivision or authority of the state are hereby authorized to enter into contracts, leases, installment sale agreements, other agreements, or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized by law; and without limiting the generality of the foregoing, the authority is specifically granted to municipal corporations, counties, and other political subdivisions and to the authority to enter into contracts, lease agreements, installment sale agreements, or other undertakings relative to the furnishing of services and facilities by the authority to such municipal corporations, counties, and political subdivisions for a term not exceeding 50 years;

(7) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell any project;

(8) To exercise the powers conferred upon a "public corporation" or a "public authority" by Article IX, Section III, Paragraph I of the Constitution of Georgia, the authority being

hereby expressly declared to be a "public corporation" or a "public authority" within the meaning of such Paragraph;

(9) To pay the cost of the project with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof, from the state or any agency or instrumentality or other political subdivision thereof, or from any other source whatsoever;

(10) To accept gifts and bequests for its corporate purposes;

(11) To accept loans, grants, or loans and grants of money, materials, or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may require;

(12) To accept loans, grants, or loans and grants of money, materials, or property of any kind from the state or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the state or such agency or instrumentality or political subdivision may require;

(13) To borrow money for any of its corporate purposes and to issue revenue bonds payable solely from funds or revenues of the authority pledged for that purpose and to pledge and assign any of its revenues, income, rent, charges, and fees to provide for the payment of the same and to provide for the rights of the holders of such revenue bonds;

(14) To exercise any power usually possessed by private corporations performing similar functions, provided that such power is not in conflict with the Constitution and statutes of this state; and

(15) To do all things necessary or convenient to carry out the powers expressly given in this Act.

SECTION 5.

Revenue bonds.

The authority shall have the power and is hereby authorized from time to time to provide by resolution for the issuance of negotiable revenue bonds in the manner provided by the Revenue Bond Law for the purpose of paying all or any part of the cost of any one or more projects, including the cost of constructing, reconstructing, equipping, extending, adding to, or improving any such project, or for the purpose of refunding, as provided by this Act, any such bonds of the authority previously issued. The principal of and interest on such revenue bonds shall be payable solely from such part of the revenues and earnings of such project or projects as may be designated in the resolution of the authority authorizing the issuance of

164 such revenue bonds. The revenue bonds of each issue shall be issued and validated under
165 and in accordance with the provisions of the Revenue Bond Law.

166 **SECTION 6.**

167 Same; negotiability; exemption from taxation.

168 All revenue bonds issued under the provisions of this Act shall have and are hereby declared
169 to have all the qualities and incidents of negotiable instruments under the negotiable
170 instruments laws of the state. All revenue bonds, their transfer, and the income therefrom
171 shall be exempt from all taxation within the state.

172 **SECTION 7.**

173 Credit not pledged.

174 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge
175 of the faith and credit of the State of Georgia or of the City of College Park, but such bonds
176 shall be payable solely from such part of the revenues and earnings of such project or
177 projects as may be designated in the resolution of the authority authorizing the issuance of
178 such bonds. The issuance of such revenue bonds shall not directly, indirectly, or
179 contingently obligate the State of Georgia or the City of College Park to levy or to pledge
180 any form of taxation whatever for the payment thereof. No holder of any bond or receiver
181 or trustee in connection therewith shall have the right to enforce the payment thereof against
182 any property of the State of Georgia or the City of College Park nor shall any such bond
183 constitute a charge, lien, or encumbrance, legal or equitable, upon any such property. All
184 such bonds shall contain on their face a recital setting forth substantially the foregoing
185 provisions of this section. The City of College Park, however, may obligate itself to pay the
186 amounts required under any contract entered into with the authority from funds received
187 from taxes to be levied and collected for that purpose and from any other source to the extent
188 necessary to pay the obligations contractually incurred with the authority; and the obligation
189 to make such payments shall constitute a general obligation and a pledge of the full faith and
190 credit of the City of College Park but shall not constitute a debt of the City of College Park
191 within the meaning of Article IX, Section V, Paragraph I of the Constitution of Georgia; and,
192 when the City of College Park contracts with the authority to make such payments from taxes
193 to be levied for that purpose, then the obligation shall be mandatory to levy and collect such
194 taxes from year to year in an amount sufficient to fulfill and comply fully with the terms of
195 such contract.

SECTION 8.

Trust indenture as security.

In the discretion of the authority, any issue of such revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State of Georgia. Such trust indenture may pledge or assign fees, tolls, rents, revenues, and earnings to be received by the authority, including the proceeds derived from the sale or lease, from time to time, of any project. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of any project, the maintenance, operation, repair, and insurance of any project, and the custody, safeguarding, and application of all moneys, including the proceeds derived from the sale or lease of any project; may provide that any project shall be acquired and constructed under the supervision and approval of consulting engineers or architects employed or designated by the authority and satisfactory to the original purchasers of the bonds issued therefor; may require that the security given by contractors and by any depository of the proceeds of the bonds or revenues or other moneys be satisfactory to such purchasers; may contain provisions concerning the conditions, if any, upon which additional revenue bonds pledging all or any part of the revenues and earnings of such project or projects may be issued; and may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. Such indenture may set forth the rights and remedies of the bondholders and of the trustee. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repair of the project affected by such indenture.

SECTION 9.

Sinking fund.

The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls, fines, charges, and earnings derived from any particular project or projects, regardless of whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular project for which revenue bonds have been issued, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the revenue bonds or the trust indenture may provide; and such funds so pledged from whatever

230 source received shall be set aside at regular intervals as may be provided in the resolution or
231 trust indenture into a sinking fund which shall be pledged to and charged with the payment
232 of:

- 233 (1) The interest upon such revenue bonds as such interest shall fall due;
- 234 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- 235 (3) Any premium upon such revenue bonds retired by call or purchase;
- 236 (4) The purchase of such revenue bonds in the open market; and
- 237 (5) The necessary charges of any paying an agent or agents for paying principal and
238 interest.

239 The use and disposition of such sinking fund shall be subject to such regulations as may be
240 provided in the resolution authorizing the issuance of the revenue bonds or in the trust
241 indenture, but, except as may otherwise be provided in such resolution or trust indenture,
242 such sinking fund shall be maintained as a trust account for the benefit of all revenue
243 bondholders without distinction or priority of one over another. Subject to the provisions of
244 the resolution authorizing the issuance of the bonds or the trust indenture, any surplus
245 moneys in the sinking fund may be applied to the purchase or redemption of bonds and any
246 such bonds so purchased or redeemed shall forthwith be canceled and shall not be reissued,
247 printed, or delivered.

248 **SECTION 10.**

249 Refunding bonds.

250 The authority is hereby authorized to provide by resolution for the issuance of revenue
251 refunding bonds of the authority for the purpose of refunding any revenue bonds issued under
252 the provisions of this Act and then outstanding, together with accrued interest thereon and
253 any premium required for the payment of such bonds prior to maturity. The issuance of such
254 revenue bonds and all the details thereof, the rights of the holders thereof, and the duties of
255 the authority with respect to the same, shall be governed by the foregoing provisions of this
256 Act insofar as the same may be applicable.

257 **SECTION 11.**

258 Validation.

259 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
260 the procedure of the Revenue Bond Law. The petition for validation shall also make party
261 defendant to such action any county, municipality, school district, or other political
262 subdivision or authority of the state which has contracted with the authority for services or

facilities relating to the project for which revenue bonds are to be issued and sought to be validated, and such defendant shall be required to show cause, if any exists, why such contract or contracts and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract adjudicated as security for the payment of any such bonds of the authority. The bonds, when validated, and the judgment of validation shall be final and conclusive regarding the validity of such bonds against the authority, and the validity of the contract and of the terms and conditions thereof, when validated, and the judgment of validation shall be final and conclusive against each such other defendant if it be a party to the validation proceeding.

SECTION 12.

Venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against the authority shall be brought in the Superior Court of Fulton County, Georgia, and any action pertaining to validation of any revenue bonds issued under the provisions of this Act shall likewise be brought in such court, which shall have exclusive, original jurisdiction of such actions.

SECTION 13.

Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of the authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds. The provisions of this section shall be for the benefit of the authority and the holders of any such revenue bonds and upon the issuance of such revenue bonds shall constitute a contract with the holders of such revenue bonds.

SECTION 14.

Moneys received considered trust funds.

All moneys received by the authority pursuant to this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 15.

Purpose of the authority.

Without limiting the generality of any provisions of this Act, the general purposes of the authority are declared to be those of acquiring, constructing, equipping, maintaining, and operating adequate water supply, treatment, and distribution facilities; waste-water collection, treatment, and distribution facilities; and storm-water management facilities and extending and improving such facilities as necessary.

SECTION 16.

Rates, charges, and revenues; use.

The authority is hereby authorized to prescribe and fix rates and to revise the same from time to time and to collect revenues, tolls, fees, fines, and charges for the services, facilities, and commodities furnished, including leases, concessions, or subleases of its projects, and to determine the price and terms at and under which its projects may be sold.

SECTION 17.

Rules, regulations, service policies, and procedures for operation of projects.

It shall be the duty of the authority to prescribe rules, regulations, service policies, and procedures for the operation of any project or projects constructed or acquired under the provisions of this Act and intended to be operated by the authority, including the basis upon which water service and facilities, sewerage service and facilities, or storm-water service and facilities shall be furnished.

SECTION 18.

Tort immunity.

The authority shall have the same immunity and exemption from liability for torts and negligence as the City of College Park, and the officers, agents, and employees of the authority, when in the performance of the work of the authority, shall have the same immunity and exemption from liability for torts and negligence as officers, agents, and employees of the City of College Park when in the performance of their public duties or work of the municipality.

SECTION 19.

Tax-exempt status of authority.

The properties of the authority, both real and personal, and the income derived therefrom are declared to be public properties used for the benefit and welfare of the people of this state and not for purposes of private or corporate benefit and income, and such properties, the income derived therefrom, and the authority shall be exempt from all taxes and special assessments of any city or county or the state or any political subdivision thereof.

SECTION 20.

Effect on other governments.

This Act shall not and does not in any way take from the City of College Park or any other municipality or political subdivision the authority to own, operate, and maintain a water system, a sewerage system, or a storm-water system, or any combination thereof, or to issue revenue bonds as provided by the Revenue Bond Law. The foregoing sections of this Act shall be deemed to provide an additional and alternative method for the doing of the things authorized by this Act and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

SECTION 21.

Property not subject to levy and sale.

The property of the authority shall not be subject to levy and sale under legal process.

SECTION 22.

Authority without taxing power.

The authority shall not have the right to impose any tax on any person or property.

SECTION 23.

Severability.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full

348 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
349 adjudged invalid or unconstitutional were not originally a part hereof. The General
350 Assembly declares that it would have passed the remaining parts of this Act if it had known
351 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

352 **SECTION 24.**

353 Liberal construction of Act.

354 This Act shall be liberally construed to effect the purposes hereof.

355 **SECTION 25.**

356 Effective date.

357 This Act shall become effective upon its approval by the Governor or upon its becoming law
358 without such approval.

359 **SECTION 26.**

360 Repealer.

361 All laws and parts of laws in conflict with this Act are repealed.